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09/512,085	02/24/2000	Fredrica V. Coates	50014-042	5426

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MCDERMOTT WILL & EMERY  
600 13TH STREET, N.W.  
WASHINGTON, DC 20005-3096

EXAMINER

REICHLE, KARIN M

ART UNIT

PAPER NUMBER

3761

DATE MAILED: 12/07/2001

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/512085

Applicant(s)

Coates

Examiner

Reiche

Group Art Unit

3761

— The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address —

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- ☒ Responsive to communication(s) filed on 2-24-00 & 5-15-01
- ☐ This action is FINAL.
- ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- ☒ Claim(s) 1-18 is/are pending in the application.
- Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- ☒ Claim(s) 1-18 is/are rejected.
- ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- ☐ Claim(s) \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

- ☒ The proposed drawing correction, filed on 5-15-01 is ☐ approved ☒ disapproved.
- ☒ The drawing(s) filed on 2-24-00 is/are objected to by the Examiner.
- ☒ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119 (a)-(d).
- ☐ All ☐ Some\* ☐ None of the:
  - ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

## Attachment(s)

- ☒ Information Disclosure Statement(s), PTO-1449, Paper No(s) 4
- ☐ Interview Summary, PTO-413
- ☒ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Other \_\_\_\_\_

Office Action Summary

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The abstract of the disclosure is objected to because legal terminology, terminology that can be inferred, terminology of purported merits, i.e. "comprising", "One embodiment of the invention", "Other embodiments provide novel mechanisms", should be avoided. Correction is required. See MPEP § 608.01(b).

The drawings are objected to because the Figures are replete with informalities. For example: Figure 1 is inconsistent with the description thereof on page 3, i.e. partly cutaway. The line from 10 should either be an arrow or the line should extend all the way to the structure it denotes. The line from 24 should be dashed to denote underlying structure. Numeral 34 doesn't denote gathers as described. Numeral 26 doesn't denote the fastener as described. The rightmost 22 should not be underlined. In Figures 1A and 1B, numeral 50 should not be underlined and a line therefrom should extend to the structure it denotes. Also, numeral 42 does not denote the corner assembling stitch line. It should be noted that these examples are merely illustrative. Applicant should carefully review and revise, as necessary, all the Figures. Correction is required.

The proposed drawing correction and/or the proposed substitute sheets of drawings, filed on May 15, 2001 have been disapproved.

The drawings are not approved because they are inaccurate or inconsistent, e.g. in Figures 5 and 5B the line from 404 should be dashed, the structure 163A is not described.

The use of the trademark Velcro (R) type (page 4, last 2 lines, page 5, first two lines, page 11, lines 6-7, 10, 11, 16, page 20) and Jockey type has been noted in this application. It should be capitalized wherever it appears and be accompanied by the generic terminology.

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Although the use of trademarks is permissible in patent applications, the proprietary nature of the marks should be respected and every effort made to prevent their use in any manner which might adversely affect their validity as trademarks. Trademarks should be shown in all capital letters and not accompanied by the trademark symbol or the terminology "type" but accompanied by generic terminology.

The disclosure is objected to because of the following informalities: The specification is replete with informalities. For example:

1) In Figure 1, what is 100? 43? 2) In Figure 1, numeral 34 doesn't denote gathers as described, i.e. description inconsistent. 3) The numeral 26 is used to denote two different structures which improper, see page 7, lines 8-12. 4) The numeral 42 is used to denote two different structures which is improper, see page 7, lines 15 et seq. 5) On page 6, amended paragraph, line 8 thereof, before "50", --, -- should be inserted. On line 9, after "cloth" ",", should be deleted. 6) There is no Summary of the Invention section. It should be noted that these examples are merely illustrative. The entire specification should be carefully reviewed and revised, as necessary. Appropriate correction is required.

Claims 1-18 are objected to because of the following informalities: In claim 1, line 2, "the" should be -- a --. In claim 7, line 1, "held" should be -- attached --. This also applies to claims 12-14. In claims 9-10, "pocket" (each) should be -- inner layer --. In claim 16, line 4, "having" (both) should be deleted. On line 7 "such" should be -- so --. Appropriate correction is required.

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Claims 10 and 13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In regard to claim 10, how can portions which are removed be joined together?

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 3, 4, 5, 6, 15, 16 are rejected under 35 U.S.C. 102(b) as being anticipated by Pressley.

Claims 1, 3-5, and 15: See Figures and paragraph bridging columns 1-2.

Claims 6 and 16: See element 34, first full paragraph of column 2. It is noted that the entire periphery of the pocket is not required.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 6 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pressley in view of Ohara.

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Applicant claims the periphery of the pocket and anchor layer joined at an elastic strip. See previous rejection. Also, see Ohara, Figures. To employ a pocket and anchor layer attached at an elastic strip as taught by Ohara on the Pressley device would have been obvious to one of ordinary skill in the art in view of the recognition that such would not only provide a comfortable edge, i.e. finished edge, but an edge which conforms to the user and the desirability of good fit in any absorbent garment.

Claims 1, 2, 9, 14, 17 and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Brownlee et al. See Figures. Claim 9 does not require the entire edge be elasticized.

Claims 7-8 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brownlee et al in view of Alsop '604, Bernard and Brier. Applicant claims a pocket attached by a releasable fastener while Brownlee teaches stitched attachment. See Alsop '604, Figures 1 and 7, Bernard, Figures 2-3 and 7-9, Brier, Figures and column 1, lines 23-34, col. 2, lines 1-17 and Brownlee, Figures and col. 1, lines 23-48. To make the stitching of Brownlee a releasable fastener instead would be obvious to one of ordinary skill in the art in view of the interchangeability as taught by Alsop and Bernard or in view of the recognition that such a feature would increase versatility, i.e. can be attached to any garment, yet still be economic and environmentally beneficial as taught by Brier and the desirability of such by Brownlee.

Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Brownlee in view of Ohara and Clyne.

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Applicant claims the edge of the cuffs are covered by an elastic strip whereas Brownlee elasticizes only the longitudinal sides of a pocket or pad holder. However, see Ohara, Figures and Clyne, Figures and column 1, lines 47-56. To also elasticize the ends in addition to the sides as taught by Ohara and Clyne on the Brownlee device would be obvious to one of ordinary skill in the art in view of the recognition that such a feature would better retain the pad and the desirability of Brownlee to retain a pad.

Claim 10 is rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Brownlee.

This claim recites a product by process. As best understood, see 112 rejection supra, the product by process is the same as or obvious from the Brownlee device.

Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Brownlee in view of Alsop, Bernard and Brier.

See discussion of claims 7-8 and 12 supra.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The other references teach various pockets.

Any inquiry concerning this communication should be directed to K. Reichle at telephone number (703) 308-2617. The Examiner's regular work schedule is Monday-Thursday.

K. Reichle:bhw  
November 9, 2001

*K. M. Reichle*  
**Karin M. Reichle**  
Patent Examiner